

2:18 - 41686

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff

EXCEPT IN U.S. PLAINTIFF CASES

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael J. Clement, Esq. Phone: 610-825-8400

Wisler Pearlstine, LLP, 460 Norristown Road, Blue Bell, PA

DEFENDANTS

Vergara Contracting, LLC, Adolfo Vergara and Oscar Amarilla
1140 Oak Road, Whitehouse Station, NJ 08889

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff)*

(For Diversity Cases Only)

and One Box for Defendants)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

[Click here for Nature of Suit Code Descriptions](#)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	FEDERAL TAX SUITS	<input type="checkbox"/> 870 Taxes (U S Plaintiff or Defendant) <input type="checkbox"/> 871 IRS— Third Party 26 USC 7609
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	IMMIGRATION		<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

Diversity 28 U.S.C. Section 1332(a)

VI. CAUSE OF ACTION

Brief description of cause
Motor Vehicle Accident

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F R C v P

DEMAND \$75,000
(exceeds)

~ CHECK YES only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S)
IF ANY**

(See instructions)

JUDGE

DOCKET NUMBER

OCT 18 2018

DATE _____

October 11, 2018

FOR OFFICE USE ONLY

~~SIGNATURE OF ATTORNEY OF RECORD~~

Michael J. Clement, Esq.

APPLYING IFP

JUDGE

MAG JUDGE

RECEIPT #

AMOUNT

18 4586

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: both Plaintiffs 1042 Washington Crossing Rd. PO Box 1052, Washington Crossing, PA 18977

Address of Defendant: all three Defendants 1140 Oak Road, Whitehouse Station, NJ 08889

Place of Accident, Incident or Transaction: Aquetong Road at Rte 232, Solebury Township, Bucks County, PA

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: October 24, 2018

Attorney at Law XXXXXXXXXX

PA Atty ID # 20039

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify)

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☒ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury *(Please specify):* _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Michael J. Clement, counsel of record or pro se plaintiff, do hereby certify:



Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.



Relief other than monetary damages is sought

DATE: October 24, 2018

Attorney at Law XXXXXXXXXX

PA Atty ID # 20039

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

OCT 18 2018

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JHS CASE MANAGEMENT TRACK DESIGNATION FORM

CHRISTOPHER ANTONIACCI, ET AL.

v.

VERGARA CONTRACTING, LLC, ET AL.

CIVIL ACTION

18 4586
NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

October 11, 2018

Date

610-825-8400

Telephone

Michael J. Clement, Esq.

Attorney-at-law

610-828-4887

FAX Number

Plaintiffs Christopher Antoniacci and

Attorney for Phyllis E. McGrady

mclement@wispearl.com

E-Mail Address

(Civ. 660) 10/02

OCT 18 2018

JHS

CHRISTOPHER ANTONIACCI
AND PHYLLIS E. McGRADY, H/W

V.

VERGARA CONTRACTING, LLC;
ADOLFO VERGARA;
AND OSCAR AMARILLA

No. 18 4586

1

4. Defendant Vergara Contracting, LLC is a limited liability company with a business office at 1140 Oak Road, Whitehouse Station, New Jersey 08889.

5. Defendant Adolfo Vergara is an adult and competent individual, being the sole member and proprietor of Vergara Contracting, LLC, with a business office at 1140 Oak Road, Whitehouse Station, New Jersey 08889.

JURISDICTION AND VENUE:

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1332(a) because the parties are of diverse citizenship and the amounts in controversy exceed \$75,000.00.

7. Venue is proper in this District pursuant to 28 U.S.C. §1391(a) because the claims arose in this District and/or substantially part of the events or omissions forming the basis of, or giving rise to, the claims occurred in this District. In addition, Defendant Adolfo Vergara and Defendant Vergara Contracting, LLC do business in the Commonwealth of Pennsylvania and the matters giving rise to this Complaint occurred in the Eastern District of Pennsylvania.

FACTS:

8. On September 2, 2017, at approximately 8:30 a.m. Christopher Antoniaci was driving a 2011 Jeep Cherokee owned by his wife, Phyllis E. McGrady, travelling south on Aquetong Road at Route 232 when he stopped and then proceeded into the intersection.

9. At that time and place on September 2, 2017, at approximately 8:30 a.m., Defendant Oscar Amarilla was driving a 2002 Ford F350 truck owned by Adolfo Vergara and was on the business and was performing duties for and at the direction of Adolfo Vergara and/or Vergara Contracting, LLC; he was travelling west on Route 232 at its intersection with Aquetong Road in Bucks County, Pennsylvania, when he ignored a stop sign governing his travel lane and

drove through the intersection at a high rate of speed, crashing into the driver's side of the Jeep vehicle then and there being lawfully operated by Plaintiff Christopher Antoniaci.

10. Defendant Amarilla was careless and negligent in the operation of the 2002 Ford F350 truck when he ignored the stop sign governing his lane of travel and drove at a high rate of speed into the driver's side of Plaintiff Antoniaci's plainly visible vehicle, thereby resulting in serious and permanent injuries and damage to Plaintiff Christopher Antoniaci.

11. On September 2, 2017, Defendant Amarilla was an unlicensed driver, having no license to operate a vehicle in either Pennsylvania or New Jersey.

12. On September 2, 2017, Amarilla was on the business of, performing duties for, and operating the vehicle under the direction and instruction of its owner, Defendant Adolfo Vergara, who knew or should have known that Defendant Amarilla was an unlicensed driver.

13. On September 2, 2017, Defendant Amarilla was driving the 2002 Ford F350 truck on the business of, performing duties for, and pursuant to the contracting operations of Vergara Contracting, LLC, as directed by its managing member, Defendant Adolfo Vergara.

14. Defendant Vergara Contracting, LLC, through its managing member Adolfo Vergara, was responsible for the actions of its agent/employee, Defendant Amarilla, on September 2, 2017.

15. Defendant Vergara Contracting, LLC, through its managing member Adolfo Vergara, was careless and negligent in: (i) hiring an unlicensed Oscar Amarilla; (ii) failing to properly supervise Oscar Amarilla; (iii) failing to determine if Oscar Amarillo could safely operate a Ford F350 truck; and (iv) negligently entrusting Defendant Amarilla to drive the 2002 Ford F350 truck on its business and in connection with its operations on September 2, 2017.

16. Defendant Adolfo Vergara was careless and negligent in: (i) hiring an unlicensed Oscar Amarilla; (ii) failing to properly supervise Oscar Amarilla; (iii) failing to determine if Oscar Amarillo could safely operate a Ford F350 truck; and (iv) negligently entrusting Defendant Amarilla to drive the 2002 Ford F350 truck on its business and in connection with its operations on September 2, 2017.

17. As a direct and proximate result of the carelessness and negligence of the Defendants as aforesaid, Christopher Antoniaci sustained serious head, back and leg injuries, including, without limitation:

Traumatic brain injury including severe concussion;
Severe facial injuries including the loss of five teeth;
Orthodontic nerve damage resulting in 4 root canal procedures;
Acute compressed fracture of the T-12 vertebra
Contusion of the T-11 vertebra body;
Coccyx deformity and back injuries;
Left knee damage;
Bruises, contusions and lacerations.

18. As a direct and proximate result of the carelessness and negligence of the Defendants, Plaintiff Christopher Antoniaci required and will continue to require medical care and treatment, surgery, physical therapy, x-rays, diagnostic testing, use of pain medications, and the use of rehabilitative services.

19. As a direct and proximate result of the carelessness and negligence of the Defendants, Plaintiff Christopher Antoniaci has incurred medical expenses and he will continue to incur medical expenses for the care and treatment of his injuries for a long time and indefinite time in the future.

20. As a direct and proximate result of the carelessness and negligence of the Defendants, Plaintiff Christopher Antoniaci has suffered a loss of earnings, and earnings capacity, as well as impairment of his future earning capacity.

21. As a direct and proximate result of the carelessness and negligence of the Defendants, Plaintiff Christopher Antoniaci has suffered and will continue to suffer from pain, discomfort, inconvenience, anxiety, embarrassment, disability, the inability to engage in his usual activities, and the deprivation of the ordinary and usual enjoyment of life and life's pleasures.

22. As a direct and proximate result of the carelessness and negligence of the Defendants, Plaintiff Phyllis E. McGrady, the wife of Plaintiff Christopher Antoniaci, has suffered and will continue to suffer the loss of the comfort, companionship and consortium of her husband Christopher Antoniaci.

CAUSES OF ACTION.

COUNT I -- CHRISTOPHER ANTONIACCI v. OSCAR AMARILLA.

23. Plaintiff Christopher Antoniaci incorporates herein by reference the averments contained in Paragraphs 1 through 22 as if the same were fully set forth herein.

WHEREFORE, Plaintiff Christopher Antoniaci prays this Honorable Court grant judgment in his favor and against Defendant Oscar Amarilla for compensatory damages in an amount in excess of the arbitration limit established by Rule 53.2 of the Local Rules of Civil Procedure of the Eastern District of Pennsylvania, together with interest, costs of suit, and such other relief as this Honorable Court deems just and proper.

COUNT II -- CHRISTOPHER ANTONIACCI v. ADOLFO VERGARA.

Plaintiff Christopher Antoniaci incorporates herein by reference the averments contained in Paragraphs 1 through 22 as if the same were fully set forth herein.

WHEREFORE, Plaintiff Christopher Antoniaci prays this Honorable Court grant judgment in his favor and against Defendant Adolfo Vergara for compensatory damages in an amount in excess of the arbitration limit established by Rule 53.2 of the Local Rules of Civil Procedure of the Eastern District of Pennsylvania, together with interest, costs of suit, and such other relief as this Honorable Court deems just and proper.

COUNT III -- CHRISTOPHER ANTONIACCI v. VERGARA CONTRACTING, LLC.

24. Plaintiff Christopher Antoniaci incorporates herein by reference the averments contained in Paragraphs 1 through 22 as if the same were fully set forth herein.

WHEREFORE, Plaintiff Christopher Antoniaci prays this Honorable Court grant judgment in his favor and against Defendant Vergara Contracting, LLC for compensatory damages in an amount in excess of the arbitration limit established by Rule 53.2 of the Local Rules of Civil Procedure of the Eastern District of Pennsylvania, together with interest, costs of suit, and such other relief as this Honorable Court deems just and proper.

COUNT IV -- PHYLLIS E. McGRADY v. OSCAR AMARILLA.

25. Plaintiff Phyllis E. McGrady incorporates herein by reference the averments contained in Paragraphs 1 through 22 as if the same were fully set forth herein.

WHEREFORE, Plaintiff Phyllis E. McGrady prays this Honorable Court grant judgment in her favor and against Defendant Oscar Amarilla for compensatory damages in an amount in excess of the arbitration limit established by Rule 53.2 of the Local Rules of Civil Procedure of

the Eastern District of Pennsylvania, together with interest, costs of suit, and such other relief as this Honorable Court deems just and proper.

COUNT V -- PHYLLIS E. McGRADY v. ADOLFO VERGARA.

26. Plaintiff Phyllis E. McGrady incorporates herein by reference the averments contained in Paragraphs 1 through 22 as if the same were fully set forth herein.

WHEREFORE, Plaintiff Phyllis E. McGrady prays this Honorable Court grant judgment in her favor and against Defendant Adolfo Vergara for compensatory damages in an amount in excess of the arbitration limit established by Rule 53.2 of the Local Rules of Civil Procedure of the Eastern District of Pennsylvania, together with interest, costs of suit, and such other relief as this Honorable Court deems just and proper.

COUNT VI -- PHYLLIS E. McGRADY v. VERGARA CONTRACTING, LLC.

27. Plaintiff Phyllis E. McGrady incorporates herein by reference the averments contained in Paragraphs 1 through 22 as if the same were fully set forth herein.

WHEREFORE, Plaintiff Phyllis E. McGrady prays this Honorable Court grant judgment in her favor and against Defendant Vergara Contracting, LLC for compensatory damages in an amount in excess of the arbitration limit established by Rule 53.2 of the Local Rules of Civil Procedure of the Eastern District of Pennsylvania, together with interest, costs of suit, and such other relief as this Honorable Court deems just and proper.

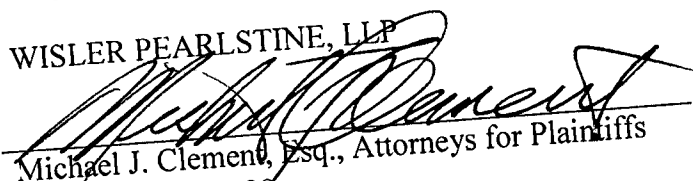
JURY TRIAL DEMANDED.

Plaintiffs hereby demand a trial by jury in this matter.

Respectfully submitted,

WISLER PEARLSTINE, LLP

By:


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Blue Bell, PA 19422
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